Status: *This version of this Rule contains provisions that are prospective.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The European Maritime and Fisheries Fund (Financial Assistance) Regulations (Northern Ireland) 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY RULES OF NORTHERN IRELAND

2015 No. 399

FISHERIES

The European Maritime and Fisheries Fund (Financial Assistance) Regulations (Northern Ireland) 2015

Made - - - -	*3rd December 2015*
Coming into operation	*14th January 2016*

The Department of Agriculture and Rural Development is a department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to the common agricultural policy of the European Union.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Department that it is expedient for references to Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund(**3**) to be construed as references to that Regulation as amended from time to time.

The Department of Agriculture and Rural Development makes the following Regulations in exercise of the powers conferred by section 2(2) of, as read with paragraph 1A of Schedule 2 to, the European Communities Act 1972(**4**).

PROSPECTIVE

Citation and commencement

1. These Regulations may be cited as the European Maritime and Fisheries Fund (Financial Assistance) Regulations (Northern Ireland) 2015 and come into operation on 14th January 2016.

Commencement Information

I1 Reg. 1 in operation at 14.1.2016, see **reg. 1**

(**1**) S. I. 2000/2812.
(**2**) 1972 c. 68.
(**3**) O.J. No.L149, 20.5.2014, p.1.
(**4**) 1972 c.68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c.7). Paragraph 1A was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 (c.51).

Interpretation

2.—(1) In these Regulations—

"application" means an application for financial assistance under regulation 5(1);

"approval" means approval of an application under regulation 6;

"the Department" means the Department of Agriculture and Rural Development, being the intermediate body for Northern Ireland designated in respect of the EMFF Operational Programme for the purpose of Article 123(6) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund(**5**);

"the EMFF Operational Programme" means the United Kingdom's operational programme drawn up for the purposes of Article 17 of the EMFF Regulation;

"the EMFF Regulation " means Regulation (EU) No 508/2014 of the European Parliament and of the Council on the European Maritime and Fisheries Fund(**6**), as amended from time to time; and

"notice" means notice in writing.

(2) Subject to regulation 14(2), the Interpretation Act (Northern Ireland) 1954(**7**), except section 20(3), applies to these Regulations as it applies to an Act of the Assembly.

Commencement Information

I2 Reg. 2 in operation at 14.1.2016, see **reg. 1**

Payments by the Department

3. The Department may pay financial assistance for any of the purposes specified in Title V of the EMFF Regulation.

Commencement Information

I3 Reg. 3 in operation at 14.1.2016, see **reg. 1**

Advertisement of financial assistance

4.—(1) The Department must advertise the financial assistance available, and provide application forms and guidance notes for making an application.

(2) The Department may determine in each financial year how much financial assistance (if any) is payable for any activity.

(**5**) O.J. No.L347, 20.12.13, p.320. The Department of Agriculture and Rural Development was designated as the intermediate body for Northern Ireland in respect of the EMFF Operational Programme by regulation 3(1)(c) of the Grants for Fishing and Aquaculture Industries Regulations 2015 [S.I. 2015/1711] and carries out those functions of the UK managing authority in Northern Ireland as are specified in the written arrangements made between the Department and the Marine Management Organisation.

(**6**) O.J.No.L149, 15.5.2014 p.1.

(**7**) 1954 c.33(NI).

Commencement Information
I4 Reg. 4 in operation at 14.1.2016, see **reg. 1**

Application for financial assistance

5.—(1) An application for financial assistance must be made on a form provided by the Department, and be submitted to the Department at the address specified.

(2) The application must contain all the information specified.

(3) The application must be made within any specified time limit.

(4) Any person who, in applying for financial assistance, gives information knowing it to be false or not believing it to be true is guilty of an offence.

(5) In this regulation, "specified" means specified on the form or on any documentation provided with the form.

Commencement Information
I5 Reg. 5 in operation at 14.1.2016, see **reg. 1**

Approval of application

6. The Department may approve an application with conditions, or may reject it.

Commencement Information
I6 Reg. 6 in operation at 14.1.2016, see **reg. 1**

Notification of decision

7.—(1) Where the Department approves an application it must give notice of its decision, and of the conditions to which the approval is subject, to the applicant.

(2) Where the Department is minded to reject an application or approve it subject to conditions, it must, before making a decision in relation to the application—

(a) give notice of the decision it is minded to make to the applicant; and

(b) give the applicant an opportunity to make representations within a date specified in the notice.

(3) The Department must —

(a) after considering any representations made to it, decide whether to reject the application or, as the case may be, approve it subject to conditions; and

(b) give notice of its decision to the applicant.

Commencement Information
I7 Reg. 7 in operation at 14.1.2016, see **reg. 1**

Evidence of expenditure or action

8.—(1) The Department must not make any payment of financial assistance unless it is satisfied that an applicant has properly incurred expenditure of a kind in respect of which the financial assistance is payable and has complied with any conditions of the approval of the financial assistance.

(2) For the purposes of paragraph (1) the Department may require an applicant to provide information evidencing expenditure or any necessary actions relating to the financial assistance.

(3) Paragraph (1) does not apply to financial assistance which may be paid in advance to support the preparation and implementation of production and marketing plans in accordance with Article 66(4) of the EMFF Regulation.

Commencement Information
I8 Reg. 8 in operation at 14.1.2016, see **reg. 1**

Method of payment

9. Financial assistance may be paid in a single payment or by instalments.

Commencement Information
I9 Reg. 9 in operation at 14.1.2016, see **reg. 1**

Records

10.—(1) It is a condition of the payment of any financial assistance that the applicant makes a record of all payments of financial assistance made and all expenditure in respect of which such payments are made, and keeps any such record for at least six years after the date on which the last payment was made.

(2) Failure to comply with paragraph (1) is an offence.

Commencement Information
I10 Reg. 10 in operation at 14.1.2016, see **reg. 1**

Variation, suspension and revocation of an approval

11.—(1) The Department may, at any time before the payment of the last instalment of the financial assistance, suspend or revoke the approval, or vary a condition of the approval.

(2) Where the Department is minded to suspend or revoke an approval, or vary a condition of an approval, it must, before deciding to do so—

(a) give notice of the decision it is minded to make to the applicant; and

(b) give the applicant an opportunity to make representations within a date specified in the notice.

(3) The Department must—

(a) after considering any representations made to it, decide whether to suspend or revoke the approval, or vary the condition of the approval; and

(b) give notice of its decision to the applicant.

Commencement Information
I11 Reg. 11 in operation at 14.1.2016, see **reg. 1**

Recovery of payment

12.—(1) The Department may, by notice given to the applicant, require the repayment of all or any part of the financial assistance paid, if it is satisfied that—

(a) the approved application in respect of which the payment of financial assistance was made, or any supporting information provided by the applicant in relation to it, contained information that was inaccurate or misleading;

(b) any sum paid by way of financial assistance was used for any purpose other than the purpose for which it was paid; or

(c) any condition subject to which the application was approved has not been or will not be complied with.

(2) A notice given under paragraph (1) must require the applicant to repay the sum specified in the notice within no less than 28 days from the date on which the notice is given.

(3) On the expiry of the period of 28 days referred to in paragraph (2), the Department may, without prejudice to any other right or remedy available to it, charge interest on the amount of any outstanding sum required to be repaid by a notice under paragraph (1) at the rate of 1% a year above the base lending rate of the Bank of England, accruing daily from the expiry of the period of 28 days.

(4) Where any sum, or part of the sum specified in a notice under paragraph (1) is not repaid within the period specified in the notice, the Department may recover such sum as remains outstanding together with interest as a civil debt.

Commencement Information
I12 Reg. 12 in operation at 14.1.2016, see **reg. 1**

Powers of entry

13.—(1) Subject to paragraph (3), an officer of the Department may, on producing, if so required, a duly authenticated authorisation, enter any premises at any reasonable hour for the purpose of enforcing these Regulations.

(2) The officer may be accompanied by—

(a) such other persons that the officer considers necessary; and

(b) a representative of the European Commission acting for the purposes of the EMFF Regulation.

(3) An officer of the Department may not enter any premises used wholly or mainly as a dwelling unless a lay magistrate has issued a warrant authorising the officer to enter the dwelling.

(4) A lay magistrate may only issue such a warrant if the lay magistrate is satisfied on a complaint on oath as to both of the following—

(a) that there are reasonable grounds for the exercise of the right of entry in relation to the dwelling; and